

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYASHTA, 1937

Bail Appl..No. 8482 of 2014 (A)

CRIME NO. 1425/2014 OF NEDUMANGAD POLICE STATION , THIRUVANANTHAPURAM

PETITIONERS/ACCUSED:

1. GOPINATHAN NAIR, AGED 58 YEARS
S/O.SANKARA PILLAI, P.V.HOUSE, POVAKKADU
PANAYAM, PANA VOOR, THIRUVANANTHAPURAM DISTRICT.
2. BABY, AGED 55 YEARS
W/O.GOPINATHAN NAIR, P.V.HOUSE, POVAKKADU
PANAYAM, PANA VOOR, THIRUVANANTHAPURAM DISTRICT.
3. ABHILASH, AGED 27 YEARS
S/O.GOPINATHAN NAIR, P.V.HOUSE, POVAKKADU
PANAYAM, PANA VOOR, THIRUVANANTHAPURAM DISTRICT.

BY ADVS.SRI.K.S.ARUN KUMAR
SMT.RESMI THOMAS

RESPONDENT/COMPLAINANT:

1. STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAMPIN - 682 031.
- ADDL.2. GOPINATHAN NAIR, AGED 58 YEARS, S/O.SANKARA PILLAI
P.V.HOUSE, POOVAKKADU PANAYAM, PANA VOOR VILLAGE
THIRUVANANTHAPURAM.

IS IMPEADED AS ADDL.R2 AS PER ORDER IN CRL.MA.11425/2014
IN BA.8482/2014 DT.5.6.2015.

ADDL.R2 BY ADV. SRI.M.R.SARIN
R1 BY PUBLIC PROSECUTOR, SHRI.RAJESH VIJAYAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05-06-2015,
THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Bail Application No.8482 of 2014

Dated this the 5th day of June 2015

O R D E R

The petitioners are the accused in Crime No.1425 of 2014 of Nedumangad police station registered under Section 420 read with Section 34 of the I.P.C.

2. The prosecution allegation is that the petitioners had collected an amount of Rs.12,00,000/- from the *defacto complainant* and his brother-in-law for purchasing a property at Pullammbara in the name of the *defacto complainant*. However, instead of registering the said property in the name of the *defacto complainant*, the petitioners got the property registered in the name of the first petitioner. The petitioners have filed this application praying for the relief under Section 438 Cr.P.C.

3. Heard the learned counsel for the petitioners Shri.K.S. Arunkumar, the learned counsel for the *defacto complainant* Shri.M.R.Sarin and the learned Public Prosecutor.

4. The first and the second petitioners are the husband and wife and the third petitioner is the son of the first and the second petitioner. It has been submitted at the bar that the daughter of the first and the second petitioner got married to the brother-in-law of the *defacto complainant*. It has been submitted by the learned counsel for the petitioners that matrimonial disputes are pending between the daughter of the first and the second petitioner and the brother-in-law of the *defacto complainant* from March 2014 onwards and this case is the outcome of the said disputes.

5. It has been conceded by the learned counsel for the *defacto complainant* that matrimonial disputes are pending as submitted by the learned counsel for the petitioners. However, the learned counsel has not agreed with the submission of the learned

counsel for the petitioners that this case is the outcome of the said disputes. The transaction involved in this case was prior to the matrimonial disputes mentioned above. Having gone through the allegations in this case, I am of the view that the dispute in this case is mainly civil in nature. Therefore, the custodial interrogation of the petitioners is not necessary for the progress of investigation of the case. Considering the facts and circumstances of the case, including the relationship between the *defacto complainant* and the petitioners, I am inclined to grant the relief under Section 438 Cr.P.C. in favour of the petitioners.

In the result, this application stands allowed and the respondent is directed to release the petitioners on bail in the event of their arrest in Crime No.1425 of 2014 of Nedumangad Police Station, on condition of each of the petitioners executing a bond for Rs.30,000/-(Rupees thirty thousand only) each, with two solvent sureties each, each for the like sum to the satisfaction of the

Sub Inspector of Police, Nedumangad Police Station, before whom the petitioners shall surrender within ten days and subject to the following conditions:

(i) The petitioners shall report before the Investigating Officer as and when required by the Investigating Officer for interrogation.

(ii) The petitioners shall not intimidate or influence the witnesses or in any way tamper with the investigation.

(iii) The petitioners shall not get involved in any offence during the pendency of this case.

sd/

**B.SUDHEENDRA KUMAR,
JUDGE**

dl

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PA TO JUDGE